

Child Abuse: A Silent Evil

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Abstract

Child abuse or maltreatment constitutes all forms of physical or emotional ill-treatment, serious abuse, neglect or negligent treatment or commercial or other exploitation resulting in actual or potential harm to the child's health, survival and development. Child abuse is the crime of harming a child in a physical, sexual and emotional manner. Child abuse is also very common in countries that continue to take part in traditional, religious and cultural practices. Poverty, sex separation and disregard in social order, lack of awareness about child rights, negative attitude towards children & harmful traditional practices. Despite of these issues there are some defects in our law. One law conflicts with another law. And criminals use those defects to save themselves. Another problem is the lengthy process of these cases. Most of the cases are dismissed because the victims are unable to run the case year to year. Investigation processes are not fixed. No singular law that looks at children in every vulnerable situation they may find themselves in. As this is a psychological issue of criminals, they need counseling. The necessary issue on this event is government's concern but in reality, the government is a failure. Government needs a specific policy to deal with this issue.

Introduction

Earlier, on September 21, a minor girl was raped by a son of her landlord at Battery Ghat in Kamrangirchar area of Dhaka when she went to ask the landlord to turn on water supply to tenant's flats. The victim's family accused the landlord's son, of abusing the girl. A silent crime is increasing day by day in every country of the world. Child abuse is a common phenomenon of now-a-days which is increasing alarmingly. It is a very conclusive issue because child abuse is kind of obstruction in growth of the children. In fact the Rights under the Convention on the Rights of Children, children have the right to be protected from being hurt and mistreated, physically or mentally. Government should ensure that children are properly cared for and protect them from violence, abuse and neglect by their parents or anyone who looks after them.¹ But the reality is totally different. Everyday thousands of children around the world are facing danger which hampers their growth and development tremendously. But the bitter truth is that sometimes children are used as toy and the loopholes of the laws are providing the chances to the offender to do this more and more. Such incidents are taking place mostly to the upper and lower tiers of the developing and under developed country. Expressing grave concerns over the rising incidents of child abuse, activists and experts said child maltreatment would not be stopped unless or until rule of law is ensured in the country.² Children are the assets of the society. They are regarded as the

¹ Article 19; A summary of the Rights under the Convention on the Rights of Children or <https://www.unicef.org/crc/files/Rights>

² Arifur Rahman Rabbi, *Child abuse reaches a horrifying level*, Dhaka Tribune, published in November 04, 2017

future architect of a nation. So responsibility of the state lies in nurturing them for their proper growth.

Defining “Child” and “Child Abuse”:

Article 1 of the Convention of the Rights of the Child defines a child as “Every human being below the age of 18 years unless, under the law applicable, majority is attained earlier”.³ Children shall include all individuals under 18 and adolescents shall constitute in 14-18 age group children (male & female).⁴ Simply child abuse means different types of violence that confine their physical, mental, psychological and moral growth. The NSPCC (National Society for the Prevention of Cruelty to Children), UK defines child abuse is any kind of action that causes effective harm to a child, be it physical, sexual or emotional. Child abuse or maltreatment constitutes all forms of physical or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation resulting in actual or potential harm to the child’s health, survival, development or dignity in the context of a relationship of responsibility, trust or power.⁵ So child abuse is the crime of harming a child in a physical, sexual and emotional manner.

Child Abuse in World Perspective

Child abuse and exploitation is common in countries which are unable to ensure that children are provided with food, medical care and education. Child abuse is also very common in countries that continue to take part in traditional, religious and cultural practices. If we look at the developing or third world countries, we can see that child abuse is a very used to matter for the state. It has become so drastic that plagues the social and economic infrastructure of the third world countries all over the world, especially in Africa and Southeast Asia. Child abuse is arising issue in Latvia, Lithuania, Macedonia and Moldova. Although having so many laws in against child abuse or maltreatment, there are so many countries in which child maltreatment is continuing to be a growing epidemic and it is true till today. UN Conventions on the Rights of the Child was signed by 196 countries including every member of the United Nations except United States. The protocols of the convention restricted involvement of children in military conflicts, sale of children, child prostitution and child pornography. Convention on the Rights of the Child, there are 49 Articles in protection of the child. Their rights are secured and laws are ensured in protection of them.⁶ But still they are not secured. Still they have to face problems to get their rights.

Reasons of Child Abuse

Poverty, Sex separation and disregard in social order, lack of awareness about child rights, negative attitude towards children and harmful traditional practices. These points are dignified as the reasons of child abuse. Many laws are made for protecting the rights of a child as well as securing a child from any kind or type of abuse. Convention on the Rights of

³ Hodgkin R, Newell P. Implementation handbook for the convention on the rights of the child prepared for UNICEF. 3rd edition. Geneva: 2007

⁴ National Children Policy 2011, Ministry of women and children Affairs, February 2011

⁵ Report of the consultation on child abuse prevention. Geneva: World Health Organization; 2007

⁶ Convention on the Rights of the Child, 1989 or www.ohchr.org/...>Professional

the Child is one of the laws which affirm the rights of the children. Child abuse is a common issue in the South Asia. Every day, a miserable cargo of young girls and women is being trafficked across well beaten paths within South Asia and further afield. Just two routes, from Nepal to India and from Bangladesh to Pakistan involve an estimated 9,000 girls a year.⁷ Though these countries have strict laws against child abuse, the cases of child abuse are increasing day by day.

Laws on Child Abuse in Bangladesh and the Loopholes:

In Bangladesh, Penal Code 1860 is used in case of child abuse. The definition of crime and punishments all are described in this law. But there are some loopholes in the laws and the rate of child abuse is increasing for these loopholes. The first problem of these laws are conflicting one with another. A human is considered as a child before the age of 18. According to the Child Marriage Restraint Act, 1929 Section 2(d) a girl under the age of 18 is a child. As a girl need minimum 18 years to attain the age of majority. Medical science also says that, a girl under the age of 18 is not physically ready to go for sexual intercourse.⁸ If child marriage is a crime than why isn't sexual intercourse by a husband with his wife after the age of 13 a crime? According to the Section 375 of the Penal Code 1860, "sexual intercourse by a man with his own wife, the wife not being under thirteen years of age, is not rape." The girl is minor and without her consent the sexual intercourse by her husband is not crime. Then, another question arise, who will file the case? A minor cannot file a case on her own because in the eyes of the laws children are not viewed as possessing the capacity to enter into legally binding contracts. In this case, a parent or legal guardian must file a case on behalf of a child for the child to receive legal damages.⁹ So the wife as a minor cannot file a case without her guardian. The guardian will never file a case in against the husband because if they do so, they will be penalized by Child Marriage Restraint Act. So here two laws are conflict each other. In most cases offender takes the chances of these loopholes.

No justice for the child. Children are thought as a weak human and cannot fight for themselves about what's going wrong with them. That's the reason why bad motive people don't feel hesitate to do any wrong with the child. As well as the stakeholders of law are not conscious about the rights of child. According to the research of The Daily Prothom Alo, "in the cases of child abuse 97% criminals don't get punished. In last 15 years there are 7,864 cases are filled in Nari-Sishu Nirjatan Daman Tribunal. The number of dismissed cases by the court is 4,277 and only 3% criminals get punishment."¹⁰ In some cases the lengthy process becomes the main reason for not getting justice. In cases of rape and murder, the medical report and forensic test results are very important. These tasks should be done immediately after the incident. The police, CID and investigation committee takes long time to collect this evidence. In a case, the dress of the victim was sent after 26 days of the incident. For lack of evidence, the victims have to run after the case for long time. And most of the victims are not

⁷ Amnesty International Children in South Asia-securing their rights. London: Amnesty International; 1998.

⁸ Sexual Development from 0-18 Years Old- Sexuality Resource Center for Parents or www.srcp.org for all parents

⁹ Suits by or Against Minors and Persons of Unsound Mind or www.advocatekhoj.com > library > minors

¹⁰ Nari o Sishura Bichar Paay Na, The Daily Prothom Alo, 8th March 2018, Page: 05

able to run the case year to year. As a result, they want to compromise with the incident and the victim gets no justice. In duration of trial 40% (1,346) cases are hanging for 6 to 13 years.¹¹ In National Conference, the judges of tribunal indicated the main reason of not disposing of a case early is planned and false cases and it is also applicable in cases of rape and child abuse. But the police officers and lawyers has confirmed such kind of cases true. Laws are not properly implemented relating to children as criminals and the stakeholders of law thinks that children are not strong enough.¹²

The investigation process of these cases is not fixed. The days are not fixed to submit the investigation paper. Long process is going for the long and long time. In the meantime, evidences are not properly collected, witnesses are not examined. In this long process if the investigators failed to present enough evidences and witnesses, the court dismissed the case. And lack of enough evidences the criminal become free. Also there is no protection for the victims and witnesses. As example, a child cannot be identified by any kind of picture, report or document which violates the reputation of the child.¹³ But the fact is nobody follows the law.¹⁴

There is no singular law that looks at children in every vulnerable situation they may find themselves in. we have laws in protection of child but loopholes still exist. The 2011 Supreme Court ruling makes corporal punishment applicable only to necessary medical interventions, but it doesn't mention strict rulings against corporal punishment¹⁵ at home, thus giving a certain justification for violence. These types of loopholes exist in our law. Expressing grave concerns over the rising incidents of child abuse, activists and experts said that in absence of rule of law this practice will never stop. So it is very important to ensure the rule of law. On the other hand, punishments are not enough. Section 70 of the Children Act, 2013 prohibits child abuse. Breach of the law may involve the convict a fine of 1 lack taka or up to five years in jail. A survey conducted by the Bangladesh Bureau of Statistics and UNICEF in 2013 where 82.3% of children aged 1-14 experienced some form of violent punishment.¹⁶ Punishments are not strictly applied that's the reason Bangladesh has one of the highest rates of child marriage involving girls less than 15 years of age. The percentage of girls marrying before 18 years is 65% and 29% girls marry by the age of 15 years.¹⁷

Recommendations

Children are like a flower. Nobody wants to hurt them. But they are abused by man. It is the mental disorder of a person. They are not mentally stable and they need counseling. If punishments are enough to solve this issue than this issue will never exist for today. In duration of the punishment, they need psychologist. Otherwise after the completion of the

¹¹Nari o Sishura Bichar Paay Na, The Daily Prothom Alo, 8thMarch 2018, Page: 05

¹²Asadujjaman & Golam Mortuja, Nari o Sishura Bichar Paay Na, The Daily Prothom Alo, 8thMarch 2018, Page: 05

¹³ The child Act, 2013; Section 8

¹⁴Arifur Rahman Rabbi, Child abuse reaches a horrifying level, Dhaka Tribune, November 04, 2017.

¹⁵ <http://www.endcorporalpunishment.org>

¹⁶Arifur Rahman Rabbi, Child abuse reaches a horrifying level, Dhaka Tribune, November 04, 2017

¹⁷ UNICEF Ending child marriage: progress and prospects. UNICEF; 2014

convicted period, there is a chance to repeat the crime again. So the criminals need counseling during the convicted period.

The investigation process in this case needs a swift and systematic pattern. Investigations are running for year to year. These cases need to be solved as soon as possible. Evidence is very important in such case. Without any further delay evidences, statements and witnesses need to be collected immediately after the incident. If we really want to solve this problem, we should stop the delay practice of investigation first.

It is a matter of shame that children are also abused at their home by relatives. Most of the families try their best to sort out this issue personally. Most of time parents shut the mouth of the child. It feels that the child is guilty, they are wrong. Family members are not willing to put out this issue sometimes thinking about the child and in most cases for the family reputation. Those families don't have any idea what are they doing? For protecting the reputation of the family, they are just spoiling the life of the child. If the family and government are not concern about the rights of the child, we can never imagine any good output from the state.

We should concern about the loopholes of the laws. By using these loopholes the criminals are becoming free. So we should implement the laws properly. Otherwise it will be quite tough for us to deal with the issue in future. Sometimes victims and witnesses are not secure. The practice of threatening victims and witnesses by the powerful persons need to stop. They need protection for a fair trial. And our government is bound to provide the security. As well as the government should implement laws in protection of the child right. These rights should be practiced in reality just not for writing. Government plays an important role in this issue. The concern of the government is very important here.

Conclusion:

In the developed countries the government is very much concern about the rights of the child. If we are not able to give them a secure life, we will never see a wealthy country. In every place there will be darkness. And the stakeholders of law are desponded. As they are the stakeholders of the law, securing rights of a citizen is their first and foremost duty. But statistics show that, they are very spiritless on this issue. So government should be strict in this fact as well as take necessary steps to stop this practice. And in cases of child family and family members play an important role. So they should concern about the child, their problems and their rights. Otherwise we are in darkness, we will remain in darkness.

Give a little love to a child, and you get a great deal back. ---John Ruskin